



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/1998/NGO/59
17 March 1998

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-fourth session
Agenda item 21

FOLLOW-UP TO THE WORLD CONFERENCE ON HUMAN RIGHTS

**Written statement submitted by Human Rights Watch, a non-governmental
organization in special consultative status**

The Secretary-General has received the following written statement,
which is circulated in accordance with Economic and Social Council
resolution 1296 (XLIV).

[9 March 1998]

1. Human Rights Watch urges the Commission to reaffirm the commitment, made by the World Conference on Human Rights in the Vienna Declaration and Programme of Action, that women's human rights are a fundamental part of human rights. The World Conference was of paramount importance to women because, in recognizing the centrality of women's human rights, the international community was compelled to scrutinize and reject the reasons used to justify women's second-class status throughout the world. The Vienna Declaration upheld (i) the universality of human rights, (ii) the indivisibility of political, civil, economic, social and cultural rights, and (iii) the applicability of human rights principles to pervasive violence and other human rights violations by private actors. Despite the strides made in Vienna, violence against women pervades every culture and discrimination is a daily element in most women's lives. Five years on, the international community has failed to implement effective measures to end gender-based discrimination and prevent violence against women.

2. Within the United Nations itself, for example, the Vienna Declaration called on the Commission on the Status of Women to "quickly examine" establishing, through an optional protocol, a woman's ability to enforce the rights protected by the Convention on the Elimination of All Forms of Discrimination against Women at the international level. While an optional protocol has been drafted, we cannot ignore that it has not yet been adopted, leaving women without any direct way to challenge gender-based discrimination and violence. Furthermore, despite a call to strengthen international mechanisms and to foster cooperation among States to stop international trafficking in women and girls, and a subsequent report by the Special Rapporteur on violence against women, its causes and consequences, emphasizing the need for such action, no substantive measures had been taken. Finally, while 160 countries have acceded to the Convention a seemingly substantial step towards the goal of universal ratification the effectiveness of the Convention remains seriously compromised by the number and breadth of reservations.

3. States have not acted effectively to curb violence against women by State representatives. Women in custody remain particularly vulnerable to violence. Both women who are political prisoners, as well as those accused of common crimes, are subject to rape and sexual assault. The overwhelming State response is indifference to this violence. Too often, authorities dismiss the claims of individuals who report such assaults as lacking credibility and even retaliate against them with more threats and abuse. Human Rights Watch has received reports from around the world of rape by border police, by military police, by national guard personnel and by correction officers. In conflict situations, rape continues to be deployed as a military strategy. In both the former Yugoslavia and Rwanda, women were subjected to sexual violence including rape by individuals, gang rapes, rapes with objects such as sharpened sticks or guns, sexual mutilation and sexual slavery. Compounding the horror of these crimes against humanity is that in both Rwanda and the former Yugoslavia, commanders who were responsible were almost never charged or brought to justice for their crimes.

4. Equally disturbing is the failure of many countries to address violence against women by private actors. Human Rights Watch recently investigated the State response to gender-based violence in Pakistan, Peru, the Russian Federation and South Africa. In each country, we found that the

State's response to the violence was inadequate at best or discriminatory and abusive at worse. Access to justice was blocked or made extremely difficult by every actor in the legal process, from the police to the forensic doctors, prosecutors and judges. In many cases, survivors who lodged complaints of domestic violence confronted hostile and unsympathetic authorities who refused to acknowledge the gravity of the assaults, routinely dismissed the assaults as deserved or a result of provocation, and ultimately denied complainants protection and redress. These practices reflect both inadequate laws as well as discriminatory and prejudiced practices on the part of State authorities.

5. In Peru, women reported to Human Rights Watch that they were told by the police, prosecutors and justices of the peace that they "deserved" to be beaten for being disobedient, stubborn or refusing sex with their partners. Women who reported sexual assaults were routinely required to undergo official forensic medical examinations in order to obtain corroborating evidence. Geographic and financial obstacles often prevented women from obtaining such examinations, thus ending any hope of prosecution. When women were able to see official forensic doctors, the examinations were conducted in an unsanitary manner by inadequately trained and equipped doctors, whose attitude toward the women was suspicious and accusatory.

6. In the Russian Federation and Peru, doctors tended to focus on the issue of whether the victim had been a virgin before the sexual assault, and routinely examined the condition of the victim's hymen with a view to deciphering her sexual history. Some doctors even claimed that they could not find any evidence of rape unless the woman they examined was a virgin. Similarly, in Pakistan, the forensic reports include a determination as to whether the victim was "habituated to sex".

7. Yet worldwide, government indifference allows perpetrators to operate in an atmosphere of impunity. The World Health Organization reported in 1996 that in 24 countries across four continents, 20 to 50 per cent of adult women had been victims of domestic violence at some point in their lives, and that in 50 to 60 per cent of these cases, the violence included rape. In addition to domestic violence, sexual assault is a persistent threat to women globally. A 1994 study of Canadian college students found that 23.3 per cent had been the victim of rape or attempted rape. A 1996 American Medical Association report estimated that one in five women is sexually assaulted by the time she reaches 21 years of age. In Peru, women's rights activists estimate that 25,000 women are raped every year. In South Africa, the Special Rapporteur on violence against women found sexual assault alarmingly widespread.

8. In addition to violence against women, which itself reflects and perpetuates discrimination, systematic discrimination against women persists in myriad forms throughout the world. In contrast to violence against women, which is universally condemned, if infrequently combated, discrimination against women is still publicly and vigorously defended in many countries. Numerous States, including those that have ratified the Convention, continue to maintain and enforce statutory laws that mandate differential and discriminatory treatment of women. In Morocco, women are treated as minors under the law regardless of age. In Nepal, women lobbied unsuccessfully for equal inheritance rights. In Guatemala, husbands may deny permission for their wives to work outside the home. And in the Russian Federation, a labour

law adopted in 1996 denied women the right to work in 400 professions deemed inconsistent with femininity and maternal responsibilities. In many States without such de jure discrimination, de facto discrimination flourishes.

9. From the most extreme examples of discrimination - such as Afghanistan's Taliban issuing edicts which severely restrict women's freedom of movement, access to health care and right to work outside the home and deny women and girls access to education - to widely accepted forms of discrimination such as pregnancy testing of women working in the maquiladora sector in Mexico, the international response has fallen far short of that required by the Vienna Declaration and Programme of Action.

10. Human Rights Watch is deeply concerned by the lack of a strong and coordinated international response to the pervasiveness of violence and discrimination against women. Fifty years after the adoption of the Universal Declaration of Human Rights and five years after the Vienna Conference, rhetoric far outstrips action at the State and international levels.

Recommendations

11. Human Rights Watch urges the Commission on Human Rights to reaffirm the commitment of the United Nations to women's human rights by, inter alia, taking the following steps to end gender-based discrimination and to prevent violence against women:

(a) Call on Member States to ratify the Convention on the Elimination of All Forms of Discrimination against women;

(b) Call on the Commission on the Status of Women to adopt an optional protocol introducing a communications and an inquiry procedure under the Convention on the Elimination of All Forms of Discrimination Against Women;

(c) Initiate a comprehensive examination, at the global level, of current manifestations, mechanics and trends of trafficking in women and, in line with the recommendation of the Special Rapporteur on violence against women, a corresponding assessment of existing international standards pertaining to trafficking, with a view to consolidating, clarifying and updating them;

(d) Call on Member States to explicitly criminalize rape, marital rape and other sexual assaults as crimes against the person; to repeal statutes that allow rapists to avoid criminal penalties by marrying their victims; to vigorously investigate and prosecute sexual violence; to standardize training of forensic doctors and forensic procedures in sexual violence cases; to provide counselling and medical services for victims of sexual violence; and to ensure training for judicial and law enforcement personnel to eliminate gender bias from the investigation and prosecution of sexual violence;

(e) Ensure that the Special Rapporteur on violence against women, its causes and consequences has adequate funds and institutional support to fulfil her mandate.